

APPLICATION FOR ABATEMENT AND/OR REFUND OF PROPERTY TAXES

TAX YEAR _____

PARCEL ID _____

Board of County Commissioners of PENNINGTON COUNTY, South Dakota

NAME Jennifer A. Giroux

MAILING ADDRESS 3213 Dover St.

CITY Rapid City State SD Zip Code 57702

Application for an abatement / refund of taxes is being presented due to the following reason (check applicable provision)

- An error has been made in any identifying entry or description of the real property, in entering the valuation of the real property or in the extension of the tax, to the injury of the complainant;
- Improvements on any real property were considered or included in the valuation of the real property, which did not exist on the real property at the time fixed by law for making the assessment;
- The property is exempt from the tax;
- The complainant had no taxable interest in the property assessed against the complainant at the time fixed by law for making the assessments;
- Taxes have been erroneously paid or error made in noting payment or issuing receipt for the taxes paid;
- The same property has been assessed against the complainant more than once in the same year, and the complainant produces satisfactory evidence that the tax for the year has been paid.
- A loss occurred because of flood, fire, storm, or other unavoidable casualty; Date and type of Loss _____
- Structures have been removed after the assessment date (upon verification by the director of equalization)
Date structures removed _____
- Applicant, having otherwise qualified for the Assessment Freeze for the Elderly and Disabled, but missed the deadline as prescribed in § 10-6A-4
- Applicant, having otherwise qualified for classification of owner--occupied single family dwelling, but missed the deadline as prescribed by law due to temporary duty assignment for the military.

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APR 05 2011
PENNINGTON CO. AUDITOR

Other / Comments Rapid City, SD Codes of Ordinances Chpt. 15.32 Flood Area Construction Regulations violated in 1999 when previous owner was granted permits to finish basement.

(No tax may be abated on any real property which has been sold for taxes, while a tax certificate is outstanding. Any abatement on property within corporate limits of a municipality must be first approved by the governing body of the municipality.)

I hereby apply for an abatement / refund of property taxes for the above reason(s).

Subscribed and sworn to, before me this 4th day of April, 2011

Jennifer A. Giroux
Applicant's Signature

DAWN CHRISTENSEN

NOTARY PUBLIC

State of South Dakota

Dawn Christensen
Notary / Auditor / Deputy Auditor

Date received by Pennington County 4/6/2011

Received by Dee L. Nessel

Total Valuation _____

Date received in Auditor's Office 4/6/2011

Valuation Abated _____

By Dee L. Nessel Auditor/Deputy

City Approval (if applicable):

City Name: _____

The contents of the within petition, having been before the governing body of the above named municipality, and having been considered by same, the undersigned hereby certifies that FAVORABLE UNFAVORABLE action was taken thereon at its meeting the ____ day of _____ 2008.

Town Clerk/City Finance Officer

April 4, 2011

Pennington County Director of Equalization Office
111 St. Joseph St
Rapid City, SD 57701

Dear Director of Equalization Office,

Under Statutes 10-18-1 I am submitting a claim for abatement or refund. I claim that part of the assessment and tax is invalid as provided in subdivision (2) if improvements on any real property were considered or included in the valuation of the real property; which did not exist on the real property at the time fixed by law for making the assessment.

I purchased 3213 Dover house in 2004 for \$128,000.00. The price of the house was based on the competitive market for properties with similar characteristics. The house had 1,688 finished sq. ft; this included 3 bedrooms, 2 bathrooms, living room, dining room, kitchen, family room, laundry room, office, garage and decks. (Attachment #1: Notes on Giroux's Purchase)
(Attachment # 2: advertisement flyer on property).

At the time the STANDARD FLOOD HAZARD DETERMINATION made the Determination: Building/Mobile Home is determined to NOT be in a special flood hazard area (Zones containing the letters "A: or "V"). Therefore, "Flood insurance is not required by the Flood Disaster Protection Act of 1973". Document Dated: 05/04/2004. Stuart Mortgage Information, 1890 Post Oak Blvd, 3rd floor, Houston. Texas 77056. (Attachment #3: Flood Hazard Determination)

In 2010, after paying off the mortgage, I began the remodel process. I hired Chamberlin Architects to draw up plans and Fisk Land Surveying & Consulting Engineers, Inc. to conduct a topographic survey. Fisk informed me I would need a flood plain permit because my property was in the Special Flood Hazard Area-Zone AE. This is how I found out my property was in the flood plain. (Attachment #4: Survey)

The 2004 STANDARD FLOOD HAZARD DETERMINATION completed when I purchased my home property was incorrect. My property was subject to the Rapid City, SD Code of Ordinances Chapter 15.32 Flood Area Construction Regulations. Unfortunately over the history of this property these regulations were never applied.

In 1999 previous owners applied for and were granted City building, electrical and plumbing permits to finish-out the basement. Each of these permits classified the house as not being in the flood plain. (Attachment #5: Building permits) At that time the finished sq. ft., of the house doubled from 844 to 1,688, the number of bedrooms increased from 2 to 3, and bathrooms from 1 to 2. Upon completion of finishing the basement the house became "non-conforming" – meaning the lowest finished floor of the structure was less than a foot above the base flood elevation (BFE). The basement's elevation 3303.79'; the BFE 3306.8'. In 1999 the structure was in violation of 15.32.250 Nonconforming uses. According to 15.32.270 Violation – Penalty, persons violating this chapter are a risk of to be fined not more than \$100 or imprisoned for not more than 30 days, or both (SDCL 9-19-3), and, in addition, shall be pay all costs and expenses

involved in the case. Each day the violation continues shall be a separate offense. Many years have passed with this structure in violation of 15.32.250 Nonconforming use.

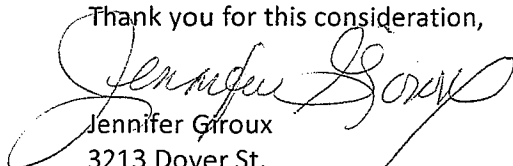
Every year since the remodel this property's value was assessed based on the remodel that created a "non-conforming" structure. The so-called "improvements" did not exist because they were not improvements but violated city ordinance 15.32.250, damaging the value of the home and potentially injurious and life-threatening to basement occupants. City Ordinance 15.32.250 may be found at <http://www.amlegal.com/library/sd/rapidcity.shtml> Subdivision 2 "Improvements on property were considered or included in the valuation of the real property; which did not exist on the real property at the time fixed by law for making the assessment", can be applied to this situation.

The problems with this house can be traced back to the 1972 flood. Several neighbors reported that the 1972 owners of this property were allowed an option to either sell or remain on the property. All home east and south of my property were not given an option; they were bought out and forced to move. The property became City green tract. My neighbors further explained that the 1972 owners had 3 years to make a decision. If they decided not to sell the property they could not later sell. This option was given to the 1972 owners because of limited resources in purchasing flood homes and that the fact that basement was the primary part of the house affected by the flood and it was unfinished. (Attachment #6: History of property, 1972-2010)

I have discussed all this with the Growth Management, Engineering Services and the City Attorney's Department. I longer find a remodel feasible. I want the status of this property properly recorded and to not be at risk of daily fines or imprisonment for owning a house that has slipped through many cracks over the last 60 years. No one should buy a home only to learn after paying it off that it is in the flood plain and they are at risk of fines and imprisonment. No life should be at risk because a homeowner does not know their home is in the flood plain. I propose to update the Registered Deed to state the house is in the flood plain. The basement should not be used as a sleeping quarters and should not be counted in the finished sq. ft. of house for purpose of property sale or value. I am taking the hit for the accumulated mistakes made on this house by all previous stakeholders including the city and county.

In return I am requesting abatement for that part of the taxes incurred between 5/27/04 (when I purchased the property) and today in which the assessment included *the remodeled or finished basement including bedroom, bathroom, laundry room, family room, office and three egress windows as an "improvement"*. As documented these were not "improvements" but rather violations of city ordinances and detrimental to the property's use, value and marketability and placed occupants at risk of loss of life. It is inappropriate for the county and county residents to benefit by taxing me for valuation of "improvements" that do not exist and are costing me money, time and resources to rectify.

Thank you for this consideration,



Jennifer Giroux
3213 Dover St.
Rapid City, SD 57702
605 341-3455